



PUBLIC NOTICE

Federal Communications Commission
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DA 03-822

Released: March 18, 2003

DOMESTIC SECTION 214 APPLICATION FILED FOR ACQUISITION OF ASSETS OF LOCAL GATEWAY EXCHANGE, INC. BY TELEPHONE SERVICE INC.

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 03-62

On February 27, 2003, Local Gateway Exchange, Inc. ("LGEI") and its shareholders and Telephone Service Incorporated ("TSI") (together "Applicants") and its shareholders, filed an application pursuant to section 63.04 of the Commission's rules,¹ for consent to transfer assets from LGEI to TSI.²

Applicants assert that this transaction is entitled to presumptive streamlined treatment pursuant to section 63.03(b)(2)(i) of the Commission's rules because the transferee, TSI, would have a market share in the interstate, interexchange market of less than 10 percent; TSI would provide competitive telephone exchange services or exchange access services (if at all) exclusively in geographic areas served by a dominant local exchange carrier that is not a party to this transaction; and neither of the applicants is dominant with respect to any service. Furthermore, Applicants state that TSI is not a telecommunications provider.³

LGEI is a nondominant carrier that resells domestic and international long distance service from various facilities based carriers. TSI does not directly offer long distance telecommunications services but is in the process of acquiring certain certifications of LGEI in order to provide telecommunications services and compete in the marketplace.

TSI proposes to acquire the assets of LGEI in bankruptcy.⁴ Pursuant to a court order

¹ 47 C.F.R. § 63.04; *see* 47 U.S.C. § 214.

² Applicants have also filed an application for transfer of control in connection with international section 214 authority. Any action on this domestic 214 application is without prejudice to Commission action on other related pending applications.

³ *See* 47 C.F.R. § 63.03(b)(1)(ii).

⁴ Applicants state that the proposed transfer has been approved by the U.S. Bankruptcy Court for the Northern District of Texas, Dallas Div., in Case No. 01-39283-HCA-7.

order approving the sale, TSI proposes to acquire the licenses and/or certificates of authority and, if any, customer accounts and related telecommunications assets of LGEI and to begin to provide telecommunications service to the customers of LGEI. After the proposed transaction, Applicants state that TSI will continue to operate in all material respects as LGEI currently operates, as a nondominant common carrier.

Applicants state that the proposed transfer of control of LGEI to TSI will serve the public interest by promoting competition and permitting implementation of the order of the Bankruptcy Court.

GENERAL INFORMATION

The transfer of assets application identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer of assets application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file **comments within 14 days and reply comments within 21 days** of this notice.⁵ Unless otherwise notified by the Commission, an applicant is permitted to transfer control of the domestic lines or authorization to operate on the 31st day after the date of this notice.⁶ Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-

⁵ See 47 C.F.R. § 63.03(a).

⁶ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

In addition, one copy of each pleading must be sent to each of the following:

- (1) the Commission's duplicating contractor, Qualex International, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: qualexint@aol.com; facsimile: (202) 863-2898; phone: (202) 863-2893.
- (2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C437, Washington, D.C. 20554; e-mail: twilson@fcc.gov, and
- (3) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 6-A461, Washington, D.C. 20554; e-mail: dcjohnso@fcc.gov, and
- (4) William Dever, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C266, Washington, D.C. 20554; e-mail: wdever@fcc.gov; and
- (5) Imani Ellis-Cheek, Telecommunications Division, International Bureau, 445 12th Street, S.W., Room 6-A739, Washington, D.C. 20554; email: ielis@fcc.gov; and
- (6) Nandan Joshi, Office of General Counsel, 445 12th Street, S.W., Room 8-A820, Washington, D.C. 20554; e-mail: njoshi@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

For further information, please contact Tracey Wilson, at (202) 418-1394, Dennis Johnson (202) 418-0809, or William Dever, Competition Policy, Wireline Competition Bureau at (202) 418-1578.

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